

UNITED STATES DISTRICT COURT
FOR THE
DISTRICT OF MASSACHUSETTS

EDWARD SHEEHAN, RONALD PERRY,)
RANDY AZZATO, and ALAN)
PACHECO, on behalf of themselves and all)
others similarly situated,)
) CIVIL ACTION NO. 05-10936-RGS
Plaintiffs,)
)
v.)
FEDEX GROUND PACKAGE SYSTEM,)
INC. and FEDEX GROUND PACKAGE)
SYSTEM, INC. d/b/a FEDEX HOME)
DELIVERY, INC.,)
) Defendants.)

**DEFENDANTS' ASSENTED-TO MOTION TO STAY PROCEEDINGS PENDING A
TRANSFER DECISION BY THE JUDICIAL PANEL ON
MULTIDISTRICT LITIGATION**

Defendants FedEx Ground Package System, Inc. ("FedEx Ground") and FedEx Home Delivery, a division of FedEx Ground (collectively "Defendants") hereby move this Court to stay all proceedings in the above-captioned case pending resolution of FedEx Ground's renewed Motion for Transfer for Coordinated Pretrial Proceedings currently pending before the Judicial Panel on Multidistrict Litigation (the "Panel").

Granting a stay of proceedings in this case is plainly within this Court's power, and is necessary and appropriate to achieve the judicial economies that underlie Section 1407, all as is more particularly set forth in Defendants' accompanying Memorandum in Support.

This civil action is one of numerous cases brought against FedEx Ground by independent contractors that are pending in federal courts across the country, and, given the similarity in these actions, it is very likely that the Panel will transfer and coordinate them for pre-trial proceedings. Absent a stay, this Court will have to waste its limited time and resources supervising pre-trial proceedings and making rulings in a case that will likely soon be supervised by another court. Moreover, without a stay, Defendants will be significantly and unfairly prejudiced as they will have to conduct duplicate discovery in jurisdictions around the country. Eleven of the subject actions have already been stayed, including one stay that continues in effect in a case from the prior MDL motion. Of the three remaining actions initially subject to the MDL Motion, a motion to stay is pending in one, a joint stipulation requesting a stay has been filed in the second, and an unopposed motion to stay will be filed in the third case shortly.

Accordingly, for the reasons set forth in the accompanying Memorandum, Defendants respectfully request that this Court grant this Motion to Stay. A proposed Order is attached hereto.

LOCAL RULE 7.1(A)(2) CERTIFICATION

The undersigned counsel for the Defendants hereby certifies that he has conferred with the Plaintiffs' counsel and has attempted in good faith to resolve or narrow the issue herein, and that the Plaintiffs have agreed to assent to this motion.

Respectfully submitted,

FEDEX GROUND PACKAGE SYSTEM, INC.
And FEDEX HOME DELIVERY

By their attorneys,

July 12, 2005

/s/ Wesley S. Chused

Wesley S. Chused (BBO #083520)
LOONEY & GROSSMAN LLP
101 Arch Street
Boston, MA 02110
(617) 951-2800

and

JOHN H. BEISNER
EVELYN L. BECKER
O'MELVENY & MYERS LLP
1625 EYE STREET, N.W.
WASHINGTON, D.C. 20006
PH: (202) 383-5300
FAX: (202) 383-5414

ASSENTED TO:

EDWARD SHEEHAN, RONALD PERRY and
RANDY AZZATO, and ALAN PACHECO, on
behalf of themselves and all others similarly situated,

By their attorneys,

/s/ Alfred Gordon

Shannon Liss-Riordan, Esq.

Alfred Gordon, Esq.

Pyle Rome, Lichten, Ehrenberg, & Liss-Riordan
18 Tremont Street, 5th Floor
Boston, MA 02108
(617) 367-7200

CERTIFICATE OF SERVICE

I hereby certify that on July 12, 2005, I served a copy of the foregoing pleading upon all parties hereto by electronically, via facsimile or by mailing copies thereof via first class mail, properly addressed to the following:

Shannon Liss-Riordan, Esq.
Alfred Gordon, Esq.
Pyle Rome, Lichten, Ehrenberg, & Liss-Riorden
18 Tremont Street, 5th Floor
Boston, MA 02108

/s/ Wesley S. Chused
Wesley S. Chused

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DELIVERY, INC.,)
)
Defendants.)

[PROPOSED] ORDER

Upon consideration of Defendants' Assented-to Motion to Stay Proceedings Pending a Transfer Decision by the Judicial Panel on Multidistrict Litigation, it is this ____ day of _____, 2005, hereby

ORDERED that Defendants' Motion to Stay is GRANTED; and it is further ORDERED that all proceedings in this case are hereby STAYED pending a decision by the Judicial Panel on Multidistrict Litigation on the pending Motion to Transfer for Coordinated Pretrial Proceedings.

SO ORDERED.

UNITED STATES DISTRICT JUDGE